



## RESOLUTION

PROPOSING AN AMENDMENT TO CHAPTER 21, REVISED ORDINANCES OF HONOLULU 1990 (THE LAND USE ORDINANCE), RELATING TO VACATION RENTALS.

WHEREAS, Oahu's residential neighborhoods, particularly those in beachfront areas, continue to experience problems caused by vacation rentals, including noise and traffic; and

WHEREAS, the growth of online vacation rental marketplaces has only exacerbated the problem and contributed to an increase in illegal vacation rentals; and

WHEREAS, the Council therefore desires to propose amendments to the Land Use Ordinance ("LUO") to further regulate vacation rentals; and

WHEREAS, Section 6-1513 of the Revised Charter of the City and County of Honolulu 1973 (2000 Edition), as amended ("Charter"), provides that "[a]ny revision of or amendment to the zoning ordinances may be proposed by the council and shall be processed in the same manner as if proposed by the director [of planning and permitting]"; and

WHEREAS, the term "zoning ordinances," as used in Charter Section 6-1513 includes both amendments to the LUO and to ordinances designating particular parcels of property in terms of the LUO; and

WHEREAS, ROH Chapter 2, Article 24, establishes procedures and deadlines for the processing of Council proposals to revise or amend the general plan, the development plans, the zoning ordinances, and the subdivision ordinance, and clarifies the responsibility of the Director of Planning and Permitting to assist the Council in adequately preparing its proposals for processing; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu that the Director of Planning and Permitting and the Planning Commission are directed, pursuant to Charter Section 6-1513 and ROH Chapter 2, Article 24, to process the proposed amendment to ROH Chapter 21 (the Land Use Ordinance), attached hereto as Exhibit "A," in the same manner as if the proposal had been proposed by the Director; and

BE IT FURTHER RESOLVED that the Director of Planning and Permitting is directed to inform the Council upon the transmittal of the Director's report and the proposed Land Use Ordinance amendment to the Planning Commission; and



**CITY COUNCIL**  
CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII

No. 17-52, CD1

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**RESOLUTION**

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BE IT FINALLY RESOLVED that, pursuant to ROH Chapter 2, Article 24, the Clerk transmit copies of this Resolution and the Exhibit attached hereto to the Director of Planning and Permitting and the Planning Commission of the City and County of Honolulu, and shall advise them in writing of the date by which the Director's report and accompanying proposed ordinance are required to be submitted to the Planning Commission.

INTRODUCED BY:

Ron Menor

Joey Manahan

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DATE OF INTRODUCTION:

February 16, 2017  
Honolulu, Hawaii

\_\_\_\_\_  
Councilmembers

## **EXHIBIT A**



**CITY COUNCIL**  
CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII

ORDINANCE \_\_\_\_\_

BILL \_\_\_\_\_

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**A BILL FOR AN ORDINANCE**

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RELATING TO VACATION RENTALS.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Purpose. The purpose of this ordinance is to amend the Land Use Ordinance to further regulate vacation rentals.

SECTION 2. Section 21-2.150-2, Revised Ordinances of Honolulu 1990, is amended to read as follows:

**"Sec. 21-2.150-2 Administrative enforcement.**

In lieu of or in addition to enforcement pursuant to Section 21-2.150-1, if the director determines that any person is violating any provision of this chapter, any rule adopted thereunder or any permit issued pursuant thereto, the director may have the person served, by mail or delivery, with a notice of violation and order pursuant to this section.

- (a) Contents of the Notice of Violation. The notice shall include at least the following information:
  - (1) Date of the notice;
  - (2) The name and address of the person noticed;
  - (3) The section number of the provision or rule, or the number of the permit which has been violated;
  - (4) The nature of the violation; and
  - (5) The location and time of the violation.
- (b) Contents of Order.
  - (1) The order may require the person to do any or all of the following:
    - (A) Cease and desist from the violation;
    - (B) Correct the violation at the person's own expense before a date specified in the order;



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- (C) Pay a civil fine not to exceed \$1,000.00 in the manner, at the place and before the date specified in the order;
  - (D) Pay a civil fine not to exceed \$1,000.00 per day for each day in which the violation persists, in the manner and at the time and place specified in the order.
- (2) The order shall advise the person that the order shall become final 30 days after the date of its mailing or delivery. The order shall also advise that the director's action may be appealed to the zoning board of appeals.
- (c) **Effect of Order--Right to Appeal.** The provisions of the order issued by the director under this section shall become final 30 days after the date of the mailing or delivery of the order. The person may appeal the order to the zoning board of appeals as provided in Section 6-1516 of the city charter. However, an appeal to the zoning board of appeals shall not stay any provision of the order.
  - (d) **Judicial Enforcement of Order.** The director may institute a civil action in any court of competent jurisdiction for the enforcement of any order issued pursuant to this section. Where the civil action has been instituted to enforce the civil fine imposed by said order, the director need only show that the notice of violation and order were served, that a civil fine was imposed, the amount of the civil fine imposed and that the fine imposed has not been paid.
  - (e) **Mandamus.** A neighbor as defined in Section 21-10.1 may bring an action in mandamus in the district court of the first circuit, State of Hawaii, to compel the director to issue and enforce an order as provided in this section when the existence of a violation is not reasonably controvertible.
  - (f) **Funding Enforcement.** \$ \_\_\_\_\_ per year and all fines recovered through administrative enforcement of the provisions of this chapter pertaining to bed and breakfast homes and transient vacation units is hereby appropriated to the department and dedicated to investigation and enforcement of such provisions.
  - (g) **Records.** All of the director's records of enforcement actions taken under this section shall be open to the public for inspection and copying without limitation or redaction."

SECTION 3. Chapter 21, Article 2, Revised Ordinances of Honolulu 1990 ("Administration and Enforcement"), is amended to add a new Section 21-2.150-3 to read as follows:



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**"Sec. 21-2.150-3 Private enforcement.**

A neighbor may institute a civil action in any court of competent jurisdiction against any person for violation of the provisions of this chapter pertaining to bed and breakfast homes and transient vacation units and shall be entitled to all remedies available under the law or in equity appropriate to remedy any such violation, including but not limited to a fine equal to the gross amount paid by a customer to rent a bed and breakfast home or transient vacation unit, which shall be doubled if the violation is shown to be willful. The department and the zoning board of appeals do not have special competence in or primary jurisdiction over such violations and the neighbor is not required to exhaust any administrative procedures before instituting action. If the neighbor is the prevailing party in any legal action taken pursuant to this section, the court shall award reasonable attorneys' fees and costs as part of the costs recoverable. Any fine which has not been satisfied in full within 90 days and has not been successfully challenged by a timely writ of mandate shall constitute a lien against the real property as to which the violation occurred and may be recorded, provided that no such lien shall be imposed if the owner of the property did not commit a violation of this chapter in connection with the rental and the owner establishes that all phases of the rental, including advertising, offer and exchange, took place without the owner's knowledge. Due to the special competence of the department in investigating and remedying violations of this chapter, no action under this section may be brought until six months after the neighbor has filed a complaint with the department against the person alleged to be in violation of the provisions of this chapter pertaining to bed and breakfast homes and transient vacation units."

SECTION 4. Chapter 21, Article 4, Revised Ordinances of Honolulu 1990 ("General Development Standards"), is amended to add new Sections 21-4.110-3 and 21-4.110-4 to read as follows:

**"Sec. 21-4.110-3 Hosting platform reports.**

Any hosting platform shall report to the director on a monthly basis, on the date and in the electronic format specified by the director, the street address of each listing on the platform of a bed and breakfast home or transient vacation unit in the city, the names of the persons responsible for each such listing, and the length of each stay and the price paid in such a listing effectuated by or through the platform. All such reports, except information about prices charged and taxes paid, shall be records open to the public for inspection and copying by neighbors of the rental who supply the address of the rental as a condition of the inspection or copying.



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**Sec. 21-4.110-4 Unpermitted rental or failure to submit reports unlawful.**

- (a) It shall be unlawful for any person other than a hosting platform to commit any of the following acts with respect to a bed and breakfast home or transient vacation unit that is not a permitted use under this chapter and does not have a nonconforming use certificate under this chapter:
- (1) Offer to rent a bed and breakfast home or transient vacation unit;
  - (2) Accept in exchange for rental of a bed and breakfast home or transient vacation unit any money or other thing of value, including any rent, fees, commissions, revenue-sharing, rebates, refunds or other exchanges of value; or
  - (3) Advertise rental of a bed and breakfast home or transient vacation unit by any means including signs, print, or electronic media.
- (b) It shall be unlawful for a hosting platform to commit any of the following acts with respect to a bed and breakfast home or transient vacation unit that is not a permitted use under this chapter and does not have a nonconforming use certificate under this chapter:
- (1) Offer any goods or services, including without limitation cleaning, insurance, catering, hotel or restaurant bookings, or guide services; or
  - (2) Fail to file any report required by Section 21-4.110-3."

SECTION 5. Section 21-10.1, Revised Ordinances of Honolulu 1990 ("Definitions"), is amended by amending the definition of "Transient vacation unit" to read as follows:

""Transient vacation unit" means a dwelling unit or lodging unit which is provided for compensation to transient occupants for less than 30 days (occupancies of less than 30 days apiece), other than a bed and breakfast home. For purposes of this definition, compensation includes, but is not limited to, monetary payment, services or labor of employees."

SECTION 6. Section 21-10.1, Revised Ordinances of Honolulu 1990 ("Definitions"), is amended by adding new definitions of "Hosting platform" and "Neighbor" to be inserted in their proper alphabetic order, and to read as follows:



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""Neighbor" means any property owner or tenant all or any part of whose principal residence is within a 1,000-foot radius of real property on which a short-term residential rental occurs."

""Hosting platform" means a marketplace in whatever form or format which facilitates the rental of a bed and breakfast home or transient vacation unit, through advertising, match-making or any other means, using any medium of facilitation, if the operator of the hosting platform derives revenues, including booking fees or advertising revenues, from providing or maintaining the marketplace."

SECTION 7. New ordinance material is underscored. When revising, compiling, or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the Revisor of Ordinances need not include the underscoring.





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SECTION 8. This ordinance takes effect upon its approval.

INTRODUCED BY:

*Ron Menor*

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DATE OF INTRODUCTION:

\_\_\_\_\_  
Honolulu, Hawaii

\_\_\_\_\_  
Councilmembers

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
Deputy Corporation Counsel

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Mayor  
City and County of Honolulu

CITY COUNCIL  
CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII  
CERTIFICATE

**RESOLUTION 17-52, CD1**

Introduced: 02/16/17 By: RON MENOR

Committee: ZONING AND HOUSING

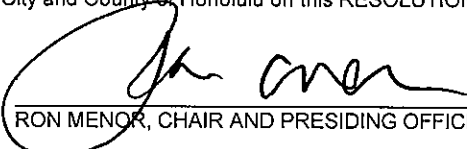
Title: RESOLUTION PROPOSING AN AMENDMENT TO CHAPTER 21, REVISED ORDINANCES OF HONOLULU 1990 (THE LAND USE ORDINANCE), RELATING TO VACATION RENTALS.

Voting Legend: \* = Aye w/Reservations

02/22/17	COUNCIL	RESOLUTION CANCELLED AND NOT CONSIDERED.
04/06/17	ZONING AND HOUSING	RESOLUTION DEFERRED IN COMMITTEE.
10/26/17	ZONING AND HOUSING	CR-405 – RESOLUTION REPORTED OUT OF COMMITTEE FOR ADOPTION AS AMENDED IN CD1 FORM.
11/01/17	COUNCIL	CR-405 AND RESOLUTION 17-52, CD1 WERE ADOPTED. 8 AYES: ANDERSON, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR, OZAWA, PINE. 1 NO: ELEFANTE.

I hereby certify that the above is a true record of action by the Council of the City and County of Honolulu on this RESOLUTION.

  
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GLEN I. TAKAHASHI, CITY CLERK

  
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RON MENOR, CHAIR AND PRESIDING OFFICER